

ARTICLE VIII

TRANSPORT AND TERMINATION OF OTHER TYPES OF TRAFFIC

8.1 Information Services Traffic.

Upon written notice to Ameritech, TWC may elect at its discretion to have the Parties transport and terminate Information Services Traffic as set forth in this Section 8.1.

8.1.1 Each Party shall route Information Service Traffic which originates on its own network to the appropriate information services platform(s) connected to the other Party's network over the Local Interconnection Trunks.

8.1.2 The Party ("Originating Party") on whose network the Information Services Traffic originated shall provide an Electronic File Transfer or monthly magnetic tape containing recorded call detail information to the Party ("Terminating Party") to whose information platform the Information Services Traffic terminated.

8.1.3 The Terminating Party shall provide to the Originating Party via Electronic File Transfer or magnetic tape all necessary information to rate the Information Services Traffic to the Originating Party's Customers pursuant to the Terminating Party's agreements with each information provider.

8.1.4 The Originating Party shall bill and collect such information provider charges and remit the amounts collected to the Terminating Party less:

- a. The Information Services Billing and Collection fee set forth on the Pricing Schedule; and
- b. An uncollectibles reserve calculated based on the uncollectibles reserve in the Terminating Party's billing and collection agreement with the applicable information provider; and
- c. Customer adjustments provided by the Originating Party.

8.1.5 The Originating Party shall provide to the Terminating Party sufficient information regarding uncollectibles and Customer adjustments. The Terminating Party shall pass through the adjustments to the information provider. Final resolution regarding all disputed adjustments shall be solely between the Originating Party and the information provider.

8.1.6 Nothing in this Agreement shall restrict either Party from offering to its Exchange Service Customers the ability to block the completion of Information Service Traffic.

8.2 BLV/BLVI Traffic.

8.2.1 Each Party shall establish procedures whereby its operator bureau shall coordinate with the operator bureau of the other Party to provide Busy Line Verification ("BLV") and Busy Line Verification Interrupt ("BLVI") services on calls between their respective Customers.

8.2.2 BLV and BLVI inquiries between operator bureaus shall be routed using network-routable access codes published in the LERG over the Local Interconnection Trunks.

8.2.3 Each Party shall charge the other Party BLV/BLVI Traffic at the rates contained in their respective tariffs.

8.3 Transit Service.

8.3.1 In addition to the Interconnection and other services provided to TWC by Ameritech under this Agreement that are required under the Act, Ameritech agrees that it shall also provide Transit Service to TWC on the terms and conditions set forth in this Section 8.3.

8.3.2 "Transit Service" means a function provided by Ameritech upon TWC's request and involving Local Traffic and/or IntraLATA Toll Traffic sent between Ameritech and TWC originating from or terminating to a Customer of a third-party ILEC or LEC, wireless provider, operator services provider or other carrier and received by Ameritech.

8.3.3 The Parties shall compensate each other for Transit Service as follows:

- a. TWC shall pay Ameritech for Local Traffic and IntraLATA Toll Traffic TWC originates over the Transit Service at the rate specified in the Pricing Schedule, and to the extent TWC does not have an Interconnection agreement with such third party carrier, any additional charges such terminating third party carrier imposes or levies on Ameritech for the delivery or termination of such traffic, including any switched access charges; and
- b. To the extent TWC does not have an Interconnection agreement with such third party carrier, Ameritech shall pay TWC for IntraLATA Toll Traffic terminated to TWC from such third party carrier (where Ameritech delivers such traffic pursuant to the Commission's Originating

Responsibility Plan/Secondary Carrier Option (ORP/SCO) plan or other similar plan) at TWC's applicable switched access rates.

8.3.4 TWC shall provide Ameritech a summary report with Transit Service usage in a thirty (30) day billing cycle.

8.3.5 For purposes of this Section 8.3, Ameritech agrees that it shall make available to TWC, at TWC's sole option, any transiting arrangement Ameritech's offers to another LEC or ILEC at the same rates, terms and conditions provided to such other LEC or ILEC.

8.4 Performance, Forecast, Planning And Standards Committee. The Parties' performance and administration of this Article VIII shall conform to the recommendations, findings and conclusions of the Committee.

ARTICLE IX

UNBUNDLED ACCESS -- SECTION 251(c)(3).

Ameritech shall, upon request of TWC, provide to TWC in accordance with Section 251(c)(3) of the Act access to its Network Elements for the provision of TWC's Telecommunications Service. Any request by TWC for access to an Ameritech Network Element that is not already available at the time of such request or expressly contemplated by this Agreement shall be made in accordance with the procedures established by the Commission or the FCC. If no such procedures exists, the Parties shall mutually agree on a procedure.

9.1 Performance, Forecast, Planning And Standards Committee. The Parties' performance and administration of this Article IX shall conform to the recommendations, findings and conclusions of the Committee.

ARTICLE X

OPERATIONAL MATTERS AND UNBUNDLED NETWORK FEATURES, FUNCTIONS AND CAPABILITIES.

10.1 A maintenance of service charge shall apply when any Party requests the dispatch of the other Party's personnel for the purpose of performing maintenance activity on the Interconnection trunks, and any of the following conditions exist:

- a. No trouble is found in the Interconnection trunks; or

- b. The trouble condition results from equipment, facilities or systems not provided by the Party whose personnel were dispatched; or
- c. Trouble clearance did not otherwise require a dispatch, and upon dispatch requested for repair verification, the Interconnection trunk does not exceed maintenance limits.

10.2 If a maintenance of service initial charge has been applied and trouble is subsequently found in the facilities of the Party whose personnel were dispatched, the charge shall be canceled.

10.3 Each Party shall bill the other Party for maintenance of service in accordance with the rates, terms and conditions contained in their respective tariffs. The Parties shall exchange maintenance of services contracts and escalation lists.

10.4 The Parties shall restore service to their respective affected trunk groups within the following intervals:

Service Affecting Trunk Outages:	within 1 hour
Non-Service Affecting Trunk Outages:	within 24 hours

10.5 In answering misdirected repair calls, no Party shall make disparaging remarks about another, nor it they use repair calls as the basis for internal referrals or to solicit customers to market services. A Party may respond with factual information in answering customer questions.

10.6 All Parties shall provide their respective repair numbers to each other for purposes of Customer referrals.

10.7 Performance, Forecast, Planning And Standards Committee. The Parties' performance and administration of this Article X shall conform to the recommendations, findings and conclusions of the Committee.

ARTICLE XI

911 AND E911 SERVICE AND DIRECTORY ASSISTANCE- SECTION 271(c)(2)(B)(vii).

11.1 E911.

11.1.1 For E911 service, Ameritech shall initially provide TWC with a minimum of two dedicated trunks to the appropriate E911 tandem, including the designated

secondary tandem, if applicable at the prices set forth in the Pricing Schedule. Additional trunks shall be provided as provided in the Pricing Schedule. The trunks provided shall be, at a minimum, DSO level trunks using CAMA type signaling with MF pulsing that shall deliver ANI with the voice portion of the call. Ameritech shall deliver the ANI to the designated Public Safety Answering Point ("PSAP"). If a municipality has converted to E911 service, TWC shall forward 911 calls to the appropriate E911 primary tandem, along with ANI, based upon the current E911 end office to tandem homing arrangement as provided by Ameritech.

11.1.2 In order to ensure the proper working of the system, along with accurate customer data, TWC shall provide daily updates to the E911 database in NENA Recommended Format for Data Exchange, Version 1 or 2, depending on Ameritech's preference. Ameritech shall provide the capability for TWC to update E911 information by direct electronic connection to Ameritech's database facility or that of its agent. Ameritech shall confirm receipt of data and incorporate all updates received from TWC within twenty-four (24) hours of the receipt of same. If Ameritech detects errors in the information provided by TWC, Ameritech shall return the incorrect files, including error codes, to TWC within twenty-four (24) hours of receipt. TWC shall correct errors and retransmit the files within twenty-four (24) hours, or shall contact Ameritech for assistance with error resolution. Ameritech shall provide confirmation that TWC updates have been included in the database in the form of a report detailing the number of items sent, the number of items entered correctly and the number of errors.

11.1.3 The E911 Services provided by Ameritech shall include delivery of Automatic Number Identification ("ANI") to the PSAP, inclusion of TWC customer information in the Automatic Location Identification ("ALI")/DMS database and the Selective Router ("SR") and all necessary dedicated trunking, and the charge provided in the Pricing Schedule.

11.1.4 Ameritech shall provide to TWC at no charge an initial Address and Routing File and quarterly updates by NPA or county, as provided in the Pricing Schedule.

11.2 Directory Assistance. Ameritech shall take such action as may be necessary, including coordination with Ameritech Advertising Services ("AAS"), to ensure that TWC's Customers primary listings and any changes to such listings are included in the directory assistance database as soon as possible but in no event longer than two business days after TWC provides the necessary information to AAS. Ameritech shall ensure that AAS shall not charge TWC to maintain the directory assistance database.

11.3 Performance, Forecast, Planning And Standards Committee. The Parties' performance and administration of this Article XI shall conform to the recommendations, findings and conclusions of the Committee.

ARTICLE XII

RESALE -- SECTIONS 251(c)(4) and 251(b)(1).

12.1 Availability of Wholesale Rates for Resale.

Ameritech shall offer to TWC for resale at wholesale rates its local exchange telecommunications services, as described in Section 251(c)(4) of the Act, on such terms and conditions as the Parties may agree in a separate agreement governing such resale.

12.2 Availability of Retail Rates for Resale.

Each Party shall make available its Telecommunications Services for resale at retail rates to the other Party in accordance with Section 251(b)(1) of the Act.

ARTICLE XIII

NOTICE OF CHANGES -- SECTION 251(c)(5).

If a Party makes a change in the information necessary for the transmission and routing of services using that Party's facilities or networks, as well as any other changes that would affect the interoperability of those facilities and networks, the Party making such change shall provide at least ninety (90) days advance written notice of such change to the other Party or within such time period as determined by the FCC or the Commission.

13.1 Performance, Forecast, Planning And Standards Committee. The Parties' performance and administration of this Article XIII shall conform to the recommendations, findings and conclusions of the Committee.

ARTICLE XIV

COLLOCATION -- SECTION 251(c)(6).

14.1 Ameritech shall provide to TWC Physical Collocation of equipment necessary for Interconnection pursuant to Article IV or for access to unbundled Network Elements, except that Ameritech may provide for Virtual Collocation of such equipment if Ameritech demonstrates to the Commission that Physical Collocation is not practical for technical reasons or because of space limitations, as provided in Section 251(c)(6) of the Act. Ameritech shall provide such Collocation for the purpose of Interconnection or access to unbundled Network Elements, except as otherwise mutually agreed to in writing by the Parties or as required by the FCC or the appropriate Commission subject to applicable federal and state tariffs.

14.2 Where TWC is Virtually Collocated in a premises which was initially prepared for Virtual Collocation, TWC may elect to (i) retain its Virtual Collocation in that premises and expand that Virtual Collocation according to current procedures and applicable tariffs, or (ii) unless it is not practical for technical reasons or because of space limitations, convert its Virtual Collocation to Physical Collocation at such premises in which case TWC shall coordinate the construction and rearrangement with Ameritech of its transmission equipment and circuits for which TWC shall pay Ameritech at applicable tariff rates. In addition, all applicable Physical Collocation recurring charges shall apply.

14.3 For both Physical Collocation and Virtual Collocation, the Collocating Party shall provide its own or third-party leased transport facilities and terminate those transport facilities in equipment located in its Physical Collocation space at the Housing Party's premises as described in applicable tariffs or contracts and purchase Cross Connection to services or facilities as described in applicable tariffs or contracts.

14.4 Nothing herein shall prevent TWC from utilizing existing Collocation facilities, purchased from tariffs, for local Interconnection with Ameritech.

14.5 Performance, Forecast, Planning And Standards Committee. The Parties' performance and administration of this Article XIV shall conform to the recommendations, findings and conclusions of the Committee.

SECTION 251(b) PROVISIONS

ARTICLE XV

NUMBER PORTABILITY -- SECTION 251(b)(2).

15.1 Number Portability. The Parties agree to provide INP on a reciprocal basis between their networks to enable their Customers to utilize telephone numbers associated with a Telephone Exchange Service provided by one Party, in conjunction with a Telephone Exchange Service provided by the other Party, upon the coordinated or simultaneous termination of the first Telephone Exchange Service and activation of the second Telephone Exchange Service. The Parties shall provide reciprocal INP via remote call forwarding ("RCF"), Direct Inward Dialing ("DID") or NXX migration.

15.2 Procedures For Providing INP through RCF

INP shall operate as follows:

15.2.1 A Customer of Party A elects to become a Customer of Party B. The Customer elects to utilize the original telephone number(s) corresponding to the Telephone Exchange Service(s) it previously received from Party A, in conjunction with the Exchange Service(s) it shall now receive from Party B. Upon documentation agreed upon by the Parties and an associated service order assigning the number to Party B, Party A shall implement an arrangement whereby all calls to the original telephone numbers(s) shall be forwarded on a multiple-path basis to a new telephone number(s) designated by Party B. Party A shall route the forwarded traffic to Party B over the appropriate trunks as if the call was a call which had originated on Party A's network.

15.2.2 Party B shall become the Customer of record for the original Party A's telephone number(s) subject to the RCF or DID arrangements. Party A shall provide Party B a billing statement for all collect and billed-to 3rd-number calls associated with those numbers, with sub-account detail by retained number. Such billing statement shall be delivered in a mutually agreed format via either paper, Electronic File Transfer, daily magnetic tape or monthly magnetic tape. Party A shall provide to Party B the Electronic Message Record ("EMR") detailed records associated with the calls reflected on the billing statement.

15.2.3 Party A may cancel line-based calling cards and shall, as directed by Party B, update its Line Information Database ("LIDB") listings for retained numbers subject to RCF or DID. Ameritech will include billing number information associated with numbers used for INP arrangements in its LIDB and will store and administer such data in the same manner as Ameritech's data for its Customers. Ameritech shall provide responses to on-line queries to the stored information for the purpose of calling card validation, fraud control and billed numbers screening without charge.

15.2.4 If a Customer elects to move its service back to Party A during the continuance of the RCF or DID arrangement, Party B shall notify Party A of the Customer's termination of service with Party B and the Customer's instructions regarding its telephone number(s) within two (2) business days of receiving notification from the Customer. Party A shall reinstate service to the Customer, cancel the RCF or DID arrangement, or redirect the RCF or DID arrangement pursuant to the Customer's instructions at that time.

15.2.5 The Parties shall migrate from RCF or DID to Permanent Number Portability as soon as practically possible but no later than December 31, 1998, without interruption of service (to the degree possible) to their respective Customers.

15.2.6 Pursuant to the PUCO Case No. 96-66-TP-CSS, from the effective date of this Agreement through December 31, 1997, the Parties shall provide RCF arrangements to one another at a rate of \$1.00 per residential line per month, for four call paths, plus \$.37 for each additional call path, and at a rate of \$3.25 per month per business line including 10 call paths plus \$.25 for each additional call path. No non-recurring charges for service ordering, line connection or any other activities shall apply through December 31, 1997. From January

1, 1998 through the balance of the term of this Agreement, the Parties shall apply RCF arrangements to one another in accordance with the rates, terms and conditions of the Pricing Schedule.

15.3 Procedures for Providing INP through NXX Migration. Where either Party has activated an entire NXX for a single Customer, or activated a substantial portion of an NXX for a single Customer with the remaining numbers in the NXX either reserved for future use or otherwise unused, if such Customer chooses to receive service from the other Party, the first Party shall cooperate with the second party to have the entire NXX reassigned in the LERG (and associated industry databases, routing tables, etc.) to an End Office operated by the second Party. Such transfer shall be accomplished with appropriate coordination between the Parties and subject to appropriate industry lead-times for movements of NXXs from one switch to another.

15.4 Procedures for Providing INP through Direct Inward Dial Trunks.

15.4.1 DID service provides trunk side access to End Office Switches for direct inward dialing to the other Party's premises equipment from the telecommunications network to lines associated with the other Party's switching equipment and must be provided on all trunks in a group arranged for inward service. A INP-DID trunk termination, charge (subject to Section 15.4.2) applies for each trunk voice grade equivalent. In addition, direct facilities are required from the end office where a ported number resides to the End Office serving the ported Customer. Transport mileage will be calculated as the airline distance between the End Office where the number is ported and the POI using the V&H coordinate method. INP-DID must be established with a minimum configuration of two channels and one unassigned telephone number per switch, per arrangement for control purposes. Transport facilities arranged for INP-DID may not be mixed with any other type of trunk group, with no outgoing calls placed over said facilities. INP-DID will be provided only where such facilities are available and where the switching equipment of the ordering Party is properly equipped. Where INP-DID service is required from more than one Wire Center or from separate trunk groups within the same Wire Center, such service provided from each Wire Center or each trunk group within the same Wire Center shall be considered a separate service.

15.4.2 The Parties hereby agree to negotiate in good faith for a period of thirty (30) days from the effective date of this Agreement with respect to the recurring and non-recurring charges, if any, for INP through DID. If the Parties are unable to agree upon the applicable charges, the issue shall be resolved in accordance with the process set forth in Article XXXIV. Nothing in this Section 15.4.2. shall preclude a Party from exercising any discovery rights it may have under any Commission proceeding.

15.5 Ameritech will provision RCF to TWC for its new Customers within two (2) business days of receipt of a valid service order that requests five (5) or less ported numbers provisioned through RCF that does not include the associated provisioning of unbundled loops

from Ameritech. Ported numbers using DID will require three (3) business days to provision without an associated unbundled loop. Provision of orders for more than five (5) ported numbers (whether provided through RCF or DID) shall be as mutually agreed by the Parties. Ameritech agrees that upon receiving a service order from TWC (in the form and manner agreed to by the Committee) for any Customer of Ameritech who wishes to disconnect its service and receive TWC's service, it shall complete the disconnect and provision RCF or DID, if applicable, within a time frame that shall allow TWC to meet its service interval for new Customers. Whenever possible, disconnects shall be coordinated between the Parties to avoid breaks in service to the Customer.

15.6 Disconnection of Customers. Subject to the rules and regulations of the Commission, Ameritech shall accept any requests from TWC to disconnect the service of an existing Ameritech Customer, except for Ameritech Public and Semipublic telephone service, subject to effective contracts with location providers. Ameritech shall not require Customer confirmation prior to disconnecting the Customer's service. Ameritech shall accept a request directly from a Customer for conversion of the Customer's service from a TWC to Ameritech or shall accept a request from another NEC for conversion of the INP service associated with an Customer's service charge from TWC to the NEC. Ameritech shall notify TWC that such a request has been processed. This Section 15.6 shall be subject to Section 258(a) and (b) of the Act which prohibits illegal changes of carrier selections and assesses liability for such changes, and any change of service verification procedures which may be promulgated by the FCC.

15.7 Non-Published Numbers. Subject to any applicable confidentiality requirements imposed by law regarding non-published numbers, the Parties shall reciprocally provide their respective numbers and contact names for their non-published bureaus so that each Party's operators shall have the capability to contact the other in order to request that a Party's operator notify that Party's Customer with a non-published number of an urgent call or emergency at the request of a user of the other Party.

15.8 Performance, Forecast, Planning And Standards Committee. The Parties performance and administration of this Article XV shall conform to the recommendations, findings and conclusions of the Committee.

ARTICLE XVI

DIALING PARITY – SECTIONS 251(b)(3) and 271(e)(2).

The Parties shall provide Dialing Parity to each other as required under Section 251(b)(3) of the Act, except as may be limited by Section 271(e)(2).

ARTICLE XVII

ACCESS TO RIGHTS-OF-WAY -- SECTION 251(b)(4).

Each Party shall provide the other Party access to the poles, ducts, rights-of-way and conduits it owns or controls on terms, conditions and prices comparable to those offered to any other entity pursuant to each Party's applicable tariffs and/or standard agreements and in accordance with Section 224 of the Act.

17.1 Performance, Forecast, Planning And Standards Committee. The Parties' performance and administration of this Article XVII shall conform to the recommendations, findings and conclusions of the Committee.

ARTICLE XVIII

REFERRAL ANNOUNCEMENT

When a Customer changes its service provider from Ameritech to TWC, or from TWC to Ameritech, and does not retain its original telephone number, the Party formerly providing service to such Customer shall provide a referral announcement ("Referral Announcement") on the abandoned telephone number which provides details on the Customer's new number. Referral Announcements shall be provided reciprocally, free of charge to either the other Party or the Customer, for a period of not less than four (4) months after the date the Customer changes its telephone number in the case of business Customers and not less than sixty (60) days after the date the Customer changes its telephone number in the case of residential Customers. However, if either Party provides Referral Announcements for a period longer than the above respective periods when its Customers change their telephone numbers, such Party shall provide the same level of service to Customers of the other Party.

ARTICLE XIX

OTHER SERVICES - SECTION 271(c)(2)(B)(viii).

TWC and Ameritech provide other services to each other as required under the Act pursuant to the Listing and Directory Services Agreement between Ameritech Advertising Services and Time Warner Communications of Ohio, L.P. dated as of the Execution Date.

ARTICLE XX

RESPONSIBILITIES OF THE PARTIES

20.1 At all times during the term of this Agreement or any extension, the Parties agree to use their best efforts to comply with all provisions herein in a fair and nondiscriminatory manner.

20.2 The Parties agree to exchange such reports and/or data as required under this Agreement to facilitate the proper billing of traffic. Upon thirty (30) days' written notice, any Party may request an audit of the usage reports and any such audit shall be accomplished during normal business hours at the office designated by the Party being audited. Audit requests shall not be submitted more frequently than one (1) time per calendar year. Audits shall be performed by a mutually acceptable independent auditor paid for by the Party requesting the audit. No Party shall have access to the data of the Party subject to the audit, but shall rely upon summary results provided by the independent auditor. Each Party shall maintain reports, records and data relevant to the billing of any Services that are the subject matter of this Agreement for a period not less than twelve (12) months after creation thereof. A request for an audit must be received within one (1) year of receipt of the PLU factor and usage reports provided by the Party to be audited.

20.3 TWC shall provide Ameritech with monthly service projections including, without limitation, busy hour usage for Ameritech's access capacity. Ameritech shall manage its network in order to accommodate TWC's projected traffic at the required grade of service. The Parties shall review engineering requirements on a semi-annual basis and establish annual forecasts for trunk and facilities utilization provided under this Agreement. Trunk growth shall be implemented as dictated by engineering requirements.

20.4 The Parties shall share responsibility for all Control Office functions for Local Interconnection Trunks and Trunk Groups, and all Parties shall share the overall coordination, installation, and maintenance responsibilities for such trunks and trunk groups.

20.5 TWC shall be responsible for all Control Office functions for the Meet-Point Trunking, Trunks and Trunk Groups, and shall be responsible for the overall coordination, installation, and maintenance responsibilities for these trunks and trunk groups.

20.6 Each Party shall:

- a. Provide trained personnel with adequate and compatible test equipment to work with the other Party's technicians;
- b. Notify the other Party when there is any change affecting the service requested, including the due date;

- c. Coordinate and schedule testing activities of its own personnel, and others as applicable, to ensure its Interconnection trunks/trunk groups are installed per the Interconnection order, meet agreed-upon acceptance test requirements, and are placed in service by the due date;
- d. Perform sectionalization to determine if a trouble is located in its facility or its portion of the Interconnection trunks prior to referring the trouble to the other Party;
- e. Advise the other Party's Control Office if there is an equipment failure which may affect the Interconnection trunks;
- f. Provide the other Party with a trouble reporting number that is readily accessible and available twenty-four (24) hours per day seven (7) days a week;
- g. Provide to the other Party test-line numbers and access to test lines.

20.7 **Bilateral Agreement.** The Parties, through the Committee, shall jointly develop and implement a bilateral agreement regarding technical and operational interfaces and procedures not covered by this Agreement ("Bilateral Agreement"). The Parties shall use their best efforts to finalize such agreement within ninety (90) days of the Execution Date of this Agreement.

20.8 The Parties shall work cooperatively to minimize fraud associated with third-number billed calls, calling card calls, and any other services related to this Agreement.

20.9 **Trouble Reports.** The Parties shall cooperatively plan and implement coordinated repair procedures for the Meet-Point Trunks and Local Interconnection Trunks and facilities to ensure trouble reports are resolved in a timely and appropriate manner.

20.10 The Parties shall provide their respective billing contact numbers to one another.

20.11 At all times during the term of this Agreement, each Party shall keep and maintain in force at each Party's expense all insurance required by law, general liability insurance and worker's compensation insurance. Upon request from the other Party, each Party shall provide to the other Party evidence of such insurance (which may be provided through a program of self-insurance).

20.12 **Performance, Forecast, Planning And Standards Committee.** The Parties performance and administration of this Article XX shall conform to the recommendations, findings and conclusions of the Committee.

ARTICLE XXI

TRUNK FORECASTING

21.1 The Parties shall work towards the development of joint forecasting responsibilities for the traffic utilization over trunk groups. Intercompany forecast information must be provided by the Parties to each other semi-annually or more frequently as the Committee may determine. The semi-annual forecasts shall include, among other things:

- a. Yearly forecasted trunk quantities including, without limitation, measurements that reflect actual tandem Local Interconnection Trunks and Meet-Point Trunks and tandem-subtending Local Interconnection End Office equivalent trunk requirements for a minimum of three (current and plus-1 and plus-2) years; provided that the current year forecast shall show a monthly forecast;
- b. The use of Common Language Location Identifier (CLLI-MSG), which is described in Bellcore documents BR 795-100-100 and BR 795-400-100; and
- c. A description of major network projects anticipated for the following six (6) months.

21.2 Each Party shall provide a specified point of contact for planning, forecasting and trunk servicing purposes.

21.3 Performance, Forecast, Planning And Standards Committee. The Parties performance and administration of this Article XXI shall conform to the recommendations, findings and conclusions of the Committee.

ARTICLE XXII

GRADE OF SERVICE

A blocking standard of one-half of one percent (.005) during the average busy hour for final trunk groups between a TWC End office and Ameritech access Tandem carrying Exchange Access traffic shall be maintained. All other final trunk groups are to be engineered with a blocking standard of one percent (.01).

ARTICLE XXIII

TRUNK SERVICING

23.1 Orders between the Parties to establish, add, change or disconnect trunks shall be processed by use of an Access Service Request ("ASR").

23.2 The Parties shall jointly manage the capacity of Local Interconnection Trunk Groups. Either Party may send another an ASR to initiate changes to the Local Interconnection Trunk Groups that the ordering Party desires based on the ordering Party's capacity assessment. The receiving Party shall issue a Firm Order Commitment ("FOC") and a Design Layout Record ("DLR") to the ordering Party within five (5) business days after receipt of the ASR.

23.3 Orders that comprise a major project (i.e., new switch deployment) shall be submitted in a timely fashion, and their implementation shall be jointly planned and coordinated.

23.4 Service requested in an ASR shall be provided within twenty (20) business days of receipt of such ASR.

23.5 If a Party requires trunk servicing within shorter time intervals than those provided for in this Article XXIII due to a *bona fide* Customer demand and such trunk servicing was not forecasted by a Party pursuant to Article XXI, such Party may designate its ASR as an "Expedite" and the other Party shall issue its FOC and DLR and use its best efforts to install service as soon as reasonably possible.

23.6 TWC shall be responsible for engineering its network on its side of the POI. Ameritech shall be responsible for engineering the POI and its network on its side of the POI.

23.7 Performance, Forecast, Planning And Standards Committee. The Parties performance and administration of this Article XXIII shall conform to the recommendations, findings and conclusions of the Committee.

ARTICLE XXIV

NETWORK MANAGEMENT

24.1 Protective Controls. Any Party may use or request protective network traffic management controls such as 7-digit and 10-digit code gaps on traffic toward or from each other's network, when required to protect the public switched network from congestion due to facility failures, switch congestion or failure or focused overload. Each Party shall immediately notify the other Party of any protective control action planned or executed by such Party.

24.2 Expansive Controls. Where the capability exists, originating or terminating traffic rerouting may be implemented by a Party to temporarily relieve network congestion due to facility failures or abnormal calling patterns. Reroutes shall not be used to circumvent normal trunk servicing. - Expansive controls shall only be used when the Parties mutually agree.

24.3 Mass Calling. The Parties shall cooperate and share pre-planning information regarding cross-network call-ins expected to generate large or focused temporary increases in call volumes, in order to prevent or mitigate the impact of these events on the public switched network.

24.4 Network Harm. Neither Party shall use any service related to or using any of the services provided in this Agreement in any manner that interferes with third parties in the use of their service, prevents third parties from using their service, impairs the quality to service to other carriers or to either Party's Customers, causes electrical hazards to either Party's personnel, damage to either Party's equipment or malfunction of either Party's billing equipment.

24.5 Performance, Forecast, Planning And Standards Committee. The Parties performance and administration of this Article XXIV shall conform to the recommendations, findings and conclusions of the Committee.

ARTICLE XXV

DISCLAIMER OF REPRESENTATIONS AND WARRANTIES

EXCEPT AS EXPRESSLY PROVIDED UNDER THIS AGREEMENT, OR ANY APPLICABLE TARIFF, IF ANY, NEITHER PARTY MAKES OR RECEIVES ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES, FUNCTIONS AND PRODUCTS IT PROVIDES UNDER THIS AGREEMENT OR AS CONTEMPLATED BY THIS AGREEMENT. IN THE CASE OF ACCESS TO NETWORK ELEMENTS, THE PARTIES DISCLAIM THE IMPLIED WARRANTIES OF MERCHANTABILITY AND/OR OF FITNESS FOR A PARTICULAR PURPOSE.

ARTICLE XXVI

CANCELLATION CHARGES

Except as otherwise provided in any applicable tariff or contract referenced herein or as otherwise agreed by the Parties, no cancellation charges shall not be imposed upon, or payable by, either Party.

ARTICLE XXVII

INDEMNIFICATION

27.1 Except as provided in Section 28.2, each Party (the "Indemnifying Party") shall defend and indemnify the other Party (the "Indemnified Party") and hold such Indemnified Party harmless against any Loss to a third party arising out of the negligence or willful misconduct by such Indemnifying Party, its agents, its Customers, contractors, or others retained by such parties, in connection with its provision of services or functions under this Agreement.

27.2 Each Party ("Indemnified Party") shall be indemnified, defended and held harmless by the other Party ("Indemnifying Party") against any Loss arising from such Indemnifying Party's use of services offered under this Agreement, involving:

(1) Claims for libel, slander, invasion of privacy, or infringement of copyright arising from the Indemnifying Party's own communications or the communications of such Indemnifying Party's Customers; or

(2) Claims for patent, trademark, copyright infringement or other infringement of intellectual property rights, arising from the Indemnifying Party's acts combining or using the service furnished by the Indemnified Party in connection with facilities or equipment furnished by the Indemnifying Party or its Customers, agents, subcontractors or others retained by such parties.

27.3 Each Party shall indemnify and hold the other Party harmless from any and all penalties imposed upon the other Party arising from the first Party's failure to comply with the Communications Law Enforcement Act of 1994 ("CALEA") and shall at such non-compliant Party's sole cost and expense, modify and replace any equipment, facilities or services provided to the other Party under this Agreement to ensure that such equipment, facilities and services fully comply with CALEA.

27.4 The Indemnifying Party agrees to defend any suit brought against the Indemnified Party for any Loss identified in this Article XXVII. The Indemnified Party agrees to notify the Indemnifying Party promptly in writing of any written claims, lawsuits, or demand for which such Indemnifying Party is or may be responsible and of which the Indemnified Party has knowledge and to cooperate in every reasonable way to facilitate defense or settlement of claims. The Indemnifying Party shall have the exclusive right to control and conduct the defense and settlement of any such actions or claims subject to consultation with the Indemnified Party. The Indemnifying Party shall not be liable for any settlement by the Indemnified Party unless such Indemnifying Party has approved such settlement in advance and agrees to be bound by the agreement incorporating such settlement.

ARTICLE XXVIII

LIMITATION OF LIABILITY.

28.1 Each Party shall be responsible only for service(s) and facility(ies) which are provided by that Party, its authorized agents, subcontractors, or others retained by such parties, and neither Party shall bear any responsibility for the services and facilities provided by the other Party, its agents, subcontractors, or others retained by such parties. No Party shall be liable for any act or omission of another Telecommunications Carrier providing a portion of a service.

28.2 Each Party shall, to the maximum extent permitted by applicable law, provide in its tariffs and contracts with its Customers that relate to any Telecommunications Service or Network Element provided or contemplated under this Agreement that in no case shall either Party or any of its agents, contractors or others retained by such parties be liable to any Customer for (i) any Loss relating to or arising out of this Agreement, whether in contract or tort, that exceeds the amount such Party would have charged the applicable Customer for the service(s) or function(s) that gave rise to such Loss, and (ii) any Consequential Damages (as defined in Section 28.3). In the event that a Party breaches its obligation under this Section 28.2, the breaching Party shall be liable to the non-breaching Party for any and all Losses resulting from such breach, including, without limitation, indemnification and/or reimbursement for Losses arising from claims from such breaching Party's Customers.

28.3 In no event shall either Party have any liability whatsoever to the other Party for any indirect, special, consequential, incidental or punitive damages, including but not limited to loss of anticipated profits or revenue or other economic loss in connection with or arising from anything said, omitted or done hereunder (collectively, "Consequential Damages"), even if the other Party has been advised of the possibility of such damages; provided, that the foregoing shall not limit a Party's obligation under Section 27.1 to indemnify, defend and hold the other Party harmless against any amounts payable to a third party, including any losses, costs, fines, penalties, criminal or civil judgments or settlements, expenses (including attorneys' fees) and Consequential Damages of such third party.

ARTICLE XXIX

EFFECTIVENESS; TERM

29.1 The Parties shall file this Agreement with the Commission immediately following its execution in accordance with the Act and, unless rejected by the Commission, this Agreement shall become effective when approved by the Commission (or the FCC if the Commission fails to act) or when deemed approved under the Act.

29.2 The Parties specifically agree that this Agreement is the Interim Interconnection Agreement contemplated by Amended Substitute Ohio Senate Bill 306 and the term of this Agreement extends beyond December 31, 1997 by the Parties' express agreement. The Parties agree to Interconnect their networks pursuant to the terms and conditions of this Agreement in the Territory for a period of two (2) years. In the sole discretion of TWC, TWC may elect to commence the stated two (2) year term of this Agreement on the date on which this Agreement becomes effective pursuant to Section 29.1 or the date of the completion by one of TWC's Customers of the first commercial switched local exchange service call in the Territory. TWC's election regarding the commencement of the term of this Agreement shall be made no later than the date on which such first commercial call is made. If TWC fails to make an election, the two (2) year term of this Agreement shall commence on the date on which such first commercial call is completed.

29.3 Upon delivery of written notice at least one hundred sixty (160) days prior to the expiration of this Agreement, either Party may require negotiations of the rates, terms, and conditions of the Interconnection arrangements to be effective upon such expiration. If the Parties are unable to satisfactorily negotiate such new terms within one hundred thirty five (135) days of such written notice, either Party may petition the Commission or take such other action as may be necessary to establish appropriate Interconnection arrangements. If the Parties are unable to mutually agree on such new terms or the Commission does not issue its order prior to the expiration date of the Agreement, this Agreement shall continue in full force and effect on and after the expiration of the term, subject to the terms and conditions of this Section 29.3 until terminated as provided herein. In the event that the Commission does not issue its order prior to the expiration of the Agreement, the Parties agree that the rates, terms and conditions ultimately ordered by such Commission or negotiated by the Parties shall be effective retroactive to such expiration date. Until a revised or subsequent Interconnection arrangement becomes effective, the Parties shall continue to perform in accordance with the terms of this Agreement.

ARTICLE XXX

FORCE MAJEURE

No Party shall be responsible for delays or failures in performance of any part of this Agreement resulting from acts or occurrences beyond the reasonable control of such Party, including, without limitation, acts of nature, acts of civil or military authority, any law, order, regulation, ordinance of any government or legal body; embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, work stoppages, equipment failure, power blackouts, volcanic action, other major environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities or acts or omissions of transportation carriers (individually or collectively, a "Force Majeure Event"); or delays caused by the other Party or any other circumstances beyond the Party's reasonable control. If a Force Majeure Event shall occur, the Party affected shall, upon giving prompt notice to the other Party, be excused from such performance on a day-to-day or hour-for-hour, as applicable, basis to the extent of such interference (and the other Party shall likewise be excused from performance of its obligations on a day-for-day or hour-for-hour, as applicable, basis to the extent such Party's obligations relate to the performance so interfered with). The affected Party shall use its best efforts to avoid or remove the cause of non-performance and the Parties shall proceed to perform with dispatch once the causes are removed or cease.

ARTICLE XXXI

GOVERNING LAW AND REGULATORY APPROVAL

31.1 This Agreement shall be governed by the laws of the State of Ohio, without giving effect to the principles of conflicts of law thereof, and federal law, as applicable, including the Act.

31.2 The Parties understand and agree that this Agreement will be filed with the Commission and may thereafter be filed with the FCC. The Parties covenant and agree that this Agreement is satisfactory to them as an agreement under Section 251 of the Act. Each Party covenants and agrees to fully support approval of this Agreement by the Commission or the FCC under Section 252 of the Act without modification. If the Commission, the FCC or a court of competent jurisdiction rejects any portion of this Agreement, the Parties agree to meet and negotiate in good faith to arrive at a mutually acceptable modification of the rejected portion; provided that such rejected portion shall not affect the validity of the remainder of this Agreement. The Parties acknowledge that nothing in this Agreement shall limit a Party's ability, independent of such Party's agreement to support and participate in the approval of this Agreement, to assert public issues relating to the Act.

ARTICLE XXXII

DEFAULT

If either Party believes the other Party is in breach of this Agreement or in violation of law, it shall give the other Party written notice of such breach or violation ten (10) days prior to commencing the dispute resolution procedures set forth in Article XXXIV.

ARTICLE XXXIII

NONDISCLOSURE

33.1 All information, including, but not limited to, summary results of audits, specifications, microfilm, photocopies, magnetic disks, magnetic tapes, drawings, sketches, models, samples, tools, technical information, data, employee records, maps, financial reports, and market data, (i) furnished or made available or otherwise disclosed by one Party to (a "Disclosing Party") the other Party or any of such other Party's employees, contractors, agents or Affiliates (its "Representatives" and with a Party, a "Receiving Party") dealing with Customer specific, facility specific, or usage specific information, other than Customer information communicated for the purpose of publication of directory database inclusion, or (ii) in written, graphic, electromagnetic, or other tangible form and marked at the time of delivery as "Confidential" or "Proprietary", or (iii) communicated orally and declared to the Receiving Party at the time of delivery, or by written notice given to the Receiving Party within ten (10) days after delivery, to be "Confidential" or "Proprietary" (collectively referred to as "Proprietary Information"), shall remain the property of the Disclosing Party.

33.2 Upon request by the Disclosing Party, the Receiving Party shall return all tangible copies of Proprietary Information, whether written, graphic or otherwise, except that the Receiving Party may retain one copy for archival purposes and if applicable, as necessary to perform its obligations under this Agreement.

33.3 Each Party shall keep all of the other Party's Proprietary Information confidential and shall use the other Party's Proprietary Information only for performing the covenants contained in this Agreement. Neither Party shall use the other Party's Proprietary Information for any other purpose except upon such terms and conditions as may be agreed upon between the Parties in writing.

33.4 Unless otherwise agreed, the obligations of confidentiality and non-use set forth in this Agreement do not apply to such Proprietary Information which:

- a. was at the time of receipt already known to the Receiving Party free of any obligation to keep it confidential evidenced by written records prepared prior to delivery by the Disclosing Party; or
- b. is, or becomes, publicly known through no wrongful act of the Receiving Party; or
- c. is rightfully received from a third person having no direct or indirect secrecy or confidentiality obligation to the Disclosing Party with respect to such information; or
- d. is independently developed by an employee, agent, or contractor of the Receiving Party which individual is not involved in any manner with the provision of services pursuant to the Agreement and does not have any direct or indirect access to the Proprietary Information; or
- e. is approved for release by written authorization of the Disclosing Party; or
- f. is required to be made public by the Receiving Party pursuant to applicable law or regulation provided that the Receiving Party shall give sufficient notice of the requirement to the Disclosing Party to enable the Disclosing Party to seek protective orders.

33.5 Notwithstanding any other provision of this Agreement, to the contrary, the Proprietary Information provisions of this Agreement shall apply to all information furnished by any Party to the another in furtherance of the purpose of this Agreement, even if furnished before the date of this Agreement.

ARTICLE XXXIV

DISPUTE RESOLUTION

The Parties agree that in the event of a default or violation hereunder, or for any dispute arising under this Agreement or related agreements the Parties may have in connection with this Agreement, such disputes shall be resolved in accordance with this Article XXXIV: The Parties shall first discuss the dispute and seek resolution prior to taking any action before any court or regulator, or before authorizing any public statement about or authorizing disclosure of the nature of the dispute to any third party. Such conference shall occur at least at the Vice President level for each Party. In the case of Ameritech, its Vice President--Sales and Marketing, Network Providers, Ameritech Information Industry Services or equivalent officer, shall participate in the meeting, and TWC's, Vice President for Business Services or equivalent officer, shall participate. The designated representatives shall meet as often as they reasonably

deem necessary in order to discuss the dispute and negotiate in good faith in an effort to resolve such dispute. The specific format for such discussions will be left to the discretion of the designated representatives, however, all reasonable requests for relevant information made by one Party to the other Party shall be honored. If the Parties' are unable to resolve issues related to a dispute within thirty (30) days after the Parties' appointment of designated representatives as set forth above, then thereafter, the Parties shall attempt in good faith to address any default or resolve any dispute according to the rules, guidelines and regulations of the Commission. In the event there are no such dispute resolution rules, guidelines or regulations of the Commission, the Parties shall submit such dispute to the procedures agreed to by the Committee.

ARTICLE XXXV

MISCELLANEOUS PROVISIONS

35.1 Authorization.

35.1.1 Ameritech Information Industry Services is a division of Ameritech Services, Inc., a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware. Ameritech Information Industry Services has full power and authority to execute and deliver this Agreement and to perform the obligations hereunder on behalf of Ameritech Ohio.

35.1.2 TWC is a limited partnership duly organized, validly existing and in good standing under the laws of the State of Delaware and has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder.

35.2 **Compliance.** Each Party shall comply with all applicable federal, state, and local laws, rules, and regulations applicable to its performance under this Agreement.

35.3 **Performance, Forecast, Planning And Standards Committee.** The Parties hereby agree to the formation of a Performance, Forecast, Planning and Standards Committee which shall be composed of representatives of both Parties for the purpose of: developing and implementing policies and procedures to promote effective and efficient performance for the benefit of each Party's Customers and each other; promoting reliable forecasting of facility and capital needs associated with the performance of this Agreement; coordinating planning of new, expanded, modified or altered network features, functions and capabilities; and, developing appropriate standards by which to evaluate the quality and timeliness of performance. Within thirty (30) days of the execution of this Agreement, each Party shall designate, in writing, no more than four (4) persons to be permanent members of this Committee provided that either Party may include, in Committee meetings or Committee activities, such technical specialists or other persons as may be reasonably required to address a specific task, matter or subject. Each Party's permanent members of the Committee shall have the authority to make commitments and take such other action as may be necessary to satisfy the objectives of this Agreement. Within

sixty (60) days from the execution of this Agreement, the Parties shall have conducted the first Committee meeting and identified a schedule and procedures for the purpose of satisfying the objectives of this Section 35.3. Such procedures shall include the process by which issues shall be resolved by the Committee. The Parties understand and agree that it is not possible, as of the date this Agreement is executed, to list or define all the needs, resources and capabilities that may be required to efficiently and effectively accomplish the objectives of this Agreement. It is the specific intent of the Parties that the Committee created by this Section 35.3 shall provide the flexibility that shall be required to allow this Agreement to dynamically adapt the relationship of the Parties as circumstances warrant or as otherwise required. Determinations by the Committee may be incorporated in the Bilateral Agreement or this Agreement according to Section 35.15 but shall, nonetheless, be in writing and provided to the persons specified in Section 35.16 to receive notices.

35.4 Taxes. Each Party purchasing services hereunder shall pay or otherwise be responsible for all federal, state, or local sales, use, excise, gross receipts, transaction or similar taxes, fees or surcharges levied against or upon such purchasing Party (or the providing Party when such providing Party is permitted to pass along to the purchasing Party such taxes, fees or surcharges), except for any tax on either Party's corporate existence, status or income. Whenever possible, these amounts shall be billed as a separate item on the invoice. To the extent a sale is claimed to be for resale tax exemption, the purchasing Party shall furnish the providing Party a proper resale tax exemption certificate as authorized or required by statute or regulation by the jurisdiction providing said resale tax exemption. Failure to timely provide said resale tax exemption certificate will result in no exemption being available to the purchasing Party.

35.5 Disputed Amounts.

- a. If any portion of an amount due to a Party (the "Billing Party") under this Agreement is subject to a bona fide dispute between the Parties, the Party billed (the "Non-Paying Party") shall within sixty (60) days of its receipt of the invoice containing such disputed amount give notice to the Billing Party of the amounts it disputes ("Disputed Amounts") and include in such notice the specific details and reasons for disputing each item. The Non-Paying Party shall pay when due (i) all undisputed amounts to the Billing Party and (ii) all Disputed Amounts into an interest bearing escrow account with a third party escrow agent mutually agreed upon by the Parties.
- b. If the Parties are unable to resolve the issues related to the Disputed Amounts in the normal course of business within sixty (60) days after delivery to the Billing Party of notice of the Disputed Amounts, each of the Parties shall appoint a designated representative who has authority to settle the dispute and who is at a higher level of management than the persons with direct responsibility for administration of this Agreement. The designated

representatives shall meet as often as they reasonably deem necessary in order to discuss the dispute and negotiate in good faith in an effort to resolve such dispute. The specific format for such discussions will be left to the discretion of the designated representatives, however all reasonable requests for relevant information made by one Party to the other Party shall be honored.

- c. If the Parties are unable to resolve issues related to the Disputed Amounts within forty-five (45) days after referral of the dispute pursuant to Article XXXIV of this Agreement, then either Party may file a complaint with the Commission to resolve such issues or proceed with any other remedy pursuant to law or equity. The Commission may direct release of any or all funds (including any accrued interest) in the escrow account, plus applicable late fees, to be paid to either Party.
- d. The Parties agree that all negotiations pursuant to this Section 36.5 shall remain confidential and shall be treated as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and state rules of evidence.
- e. Any amounts not paid when due shall accrue interest from the date such amounts were due at the lesser of (i) one and one-half percent (1-1/2%) per month or (ii) the highest rate of interest that may be charged under applicable law.

35.6 No remedy set forth in this Agreement is intended to be exclusive and each and every remedy shall be cumulative and in addition to any other rights or remedies now or hereafter existing under applicable law or otherwise.

35.7 **Publicity and Use of Trademarks or Service Marks.** Neither Party nor its subcontractors or agents shall use the other Party's trademarks, service marks, logos or other proprietary trade dress in any advertising, press releases, publicity matters or other promotional materials without such Party's prior written consent.

35.8 **Most Favored Nation -- Section 252(i).**

- a. If Ameritech enters into an agreement (the "Other Agreement") approved by the Commission pursuant to Section 252 (e)(1) of the Act or filed a tariff or is subject to an order of the Commission or the FCC which provides for the provision of arrangements covered in this Agreement within the State of Ohio to another requesting Telecommunications Carrier, including itself or its Affiliate, Ameritech shall make available to TWC such arrangements upon the same rates, terms and conditions as those provided in the Other Agreement or tariff. At its sole option, TWC may avail itself of either (i) the Other

Agreement in its entirety or (ii) the prices, terms and conditions of the Other Agreement that directly relate to any of the following duties as a whole:

- (1) Interconnection - Section 251(c)(2) of the Act (Section 4.0 and 5.0 of this Agreement); or
 - (2) Exchange Access - Section 251(c)(2) of the Act (Section 6.0 of this Agreement); or
 - (3) Unbundled Access - Section 251(c)(3) of the Act (Section 9.0 of this Agreement); or
 - (4) Resale - Section 251(c)(4) of the Act (Section 10.0 of this Agreement); or
 - (5) Collocation - Section 251(c)(6) of the Act (Section 12.0 of this Agreement); or
 - (6) Number Portability - Section 251(b)(2) of the Act (Section 13.0 of this Agreement); or
 - (7) Access to Rights of Way - Section 251(b)(4) of the Act (Section 15.0 of this Agreement); or
 - (8) Service quality standards that apply to any of the duties set forth in subsections (1)-(7) above, or
 - (9) E911 Service - Section 271(c)(2)(B)(vii)(I) of the Act (Section 11.1 of this Agreement); or
 - (10) Directory Listing - Section 271(c)(2)(B)(viii) of the Act; or
 - (11) Directory Assistance Database - Section 271(c)(2)(B)(vii)(II) of the Act (Section 11.2 of this Agreement).
- b. Nothing in this Section 35.8, shall affect any obligations TWC may have under Section 252(i) of the Act or be construed to waive any of Ameritech's rights under Section 252(i).

35.9 No License. No license under patents, copyrights or any other intellectual property right (other than the limited license to use consistent with the terms, conditions and restrictions of this Agreement) is granted by either Party or shall be implied or arise by estoppel with respect to any transactions contemplated under this Agreement.

35.10 Severability. Except as provided in Section 35.8, if any provision of this Agreement, or the application of such provision to any Party or circumstance, shall be held invalid, the remainder of this Agreement, or the application of such provision to the Parties or circumstances other than those to which it is held invalid, shall not be effective thereby; provided that the Parties shall attempt to reformulate such invalid provision to give effect to such portions thereof as may be valid without defeating the intent of such provision.

35.11 Performance. The Parties understand and agree that each Party's ability to effectively and efficiently provide local exchange service to their respective Customers shall substantially depend upon each Party's responsiveness to the other Party's requests and each Party's performance of its responsibilities under this Agreement. The Parties understand that performance under this Agreement may be asserted by either Party in any proceeding relating to compliance with the requirements of Section 271 of the Act.

35.12 Independent Contractor. Each Party shall perform services hereunder as an independent contractor and nothing herein shall be construed as creating any other relationship between the Parties. Each Party and each Party's contractor shall be solely responsible for the withholding or payment of all applicable federal, state and local income taxes, social security taxes and other payroll taxes with respect to their employees, as well as any taxes, contributions or other obligations imposed by applicable state unemployment or workers' compensation acts. Each Party has sole authority and responsibility to hire, fire and otherwise control its employees.

35.13 Non-Assignment. Neither Party may assign or transfer (whether by operation of law or otherwise) this Agreement (or any rights or obligations hereunder) to a third party without the prior written consent of the other Party, which shall not be unreasonably withheld; provided that each Party may assign this Agreement to a corporate Affiliate or an entity under its common control or an entity acquiring all or substantially all of its assets or equity by providing prior written notice to the other Party of such assignment or transfer. Any attempted assignment or transfer that is not permitted is void ab initio. Without limiting the generality of the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the Parties' respective successors and assigns.

35.14 Non-Waiver. Failure of either Party to insist on performance of any term or condition of this Agreement or to exercise any right or privilege hereunder shall not be construed as a continuing or future waiver of such term, condition, right or privilege.

35.15 Modification. No variation or modification of this Agreement and no waiver of any of its terms or conditions shall be valid unless it is in writing and signed by the duly authorized officers of the Party or Parties sought to be charged.

35.16 Notices. Notices given by one Party to the other Party under this Agreement shall be in writing and shall be (a) delivered personally, (b) delivered by express delivery

service, (c) mailed, certified mail or first class U.S. mail postage prepaid, return receipt requested or (d) delivered by telecopy to the following addresses of the Parties:

To TWC:

Time Warner Communications of Ohio, L.P.
1266 Dublin Road
Columbus, Ohio 43216
Attn: Vice President - Regulatory
Facsimile: 614/481-5044

with a copy to:

Time Warner Communications
160 Inverness Drive West
Englewood, CO 80112
Attn.: Senior Counsel
Facsimile: 303/799-5591

To Ameritech:

Ameritech Information Industry Services
350 North Orleans, Floor 3
Chicago, IL 60654
Attn.: Vice President - Network Providers
Facsimile: 312/335-2927

with a copy to:

Ameritech Information Industry Services
350 North Orleans, Floor 3
Chicago, IL 60654
Attn.: Vice President and General Counsel
Facsimile: 312/595-1504

or to such other address as either Party shall designate by proper notice. Notices will be deemed given as of the earlier of (i) the date of actual receipt, (ii) the next business day when notice is sent via express mail or personal delivery, (iii) three (3) days after mailing in the case of first class or certified U.S. mail or (iv) on the date set forth on the confirmation in the case of telecopy.

35.17 Joint Work Product. This Agreement is the joint work product of the Parties and has been negotiated by the Parties and their respective counsel and shall be fairly interpreted

in accordance with its terms and, in the event of any ambiguities, no inferences shall be drawn against either Party.

35.18 No Third Party Beneficiaries; Disclaimer of Agency. This Agreement is for the sole benefit of the Parties and their permitted assigns, and nothing herein express or implied shall create or be construed to create any third-party beneficiary rights hereunder. Except for provisions herein expressly authorizing a Party to act for another, nothing in this Agreement shall constitute a Party as a legal representative or agent of the other Party, nor shall a Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against or in the name or on behalf of the other Party unless otherwise expressly permitted by such other Party. Except as otherwise expressly provided in this Agreement, no Party undertakes to perform any obligation of the other Party, whether regulatory or contractual, or to assume any responsibility for the management of the other Party's business.

35.19 Survival. The Parties' obligations under this Agreement which by their nature are intended to continue beyond the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement, including without limitation, Articles XXV, XXVII, XXVIII and XXXIII; and Sections 35.4, 35.5, 35.7 and 35.9.

35.20 Performance, Forecast, Planning And Standards Committee. The Parties' performance and administration of this Article XXXV shall conform to the recommendations, findings and conclusions of the Committee.

35.21 Entire Agreement. The terms contained in this Agreement and any Schedules, Exhibits, tariffs and other documents or instruments referred to herein, which are incorporated into this Agreement by this reference, constitute the entire agreement between the Parties with respect to the subject matter hereof, superseding all prior understandings, proposals and other communications, oral or written, except for those agreements that are executed contemporaneously herewith. Except as specifically provided, nothing in this Agreement shall be deemed to affect any access charge arrangement. Neither Party shall be bound by any preprinted terms additional to or different from those in this Agreement that may appear subsequently in the other Party's form documents, purchase orders, quotations, acknowledgments, invoices or other communications.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

TIME WARNER COMMUNICATIONS
OF OHIO, L.P.

AMERITECH INFORMATION
INDUSTRY SERVICES, A DIVISION OF
AMERITECH SERVICES, INC., ON
BEHALF OF AMERITECH OHIO

By: _____
Printed: _____
Title: _____

By: _____
Printed: _____
Title: _____

SCHEDULE 3.0

IMPLEMENTATION SCHEDULE

<u>LATA</u>	Ameritech Interconnection Wire Center <u>(AIWC)</u>	TWC Interconnection Wire Center <u>(TIWC)</u>	<u>Interconnection Activation Date</u>
324	Columbus CLMBOHHS GT	Columbus	Projected 1 st Quarter 1997

PRICING SCHEDULE — OHIO

I. Information Services Billing and Collection

Fee - To be Negotiated

II. E911

Automatic Number Identification (ANI), Automatic Location Identification (ALI) and selective routing (SR), charge per Access Lines serviced by the E911 Network: \$.08 per Access Line per month and a one-time nonrecurring charge of \$2,000.00.

Each 1000 Access Lines will include the following number of trunks per trunk group between the Ameritech Central Office and Ameritech Control Offices deemed sufficient to accommodate traffic:

Access		Trunks provided at no additional charge
01-1,500	=	2 Trunks
1,501-7,500	=	3 Trunks
7,501-18,500	=	4 Trunks
18,501-33,500	=	5 Trunks

Should TWC desire more trunks than those described above, TWC shall acquire such additional trunks at rates, term and conditions mutually agreed upon by the Parties through the Committee.

Optional Manual Update: Update of the ALI/DMS databases from paper copies of service order activity furnished by TWC at no additional charge. Ameritech reserves the right to institute a charge for Optional Manual Update service upon sixty days written notice to TWC. In that event, electronic update service shall continue to be available at no charge.

Address and Routing File No Charge for one (1) ARF per NPA and quarterly updates for that ARF.

III. Transiting

Rate = \$0.002 per minute of use

IV. Number Portability

RCF arrangements from and after January 1, 1998:

Recurring Charges--

Residential: \$2.00 including one line plus two paths, \$.37 per additional path

Business: \$3.00 including one line plus twenty paths, \$.25 per additional path

Nonrecurring charges shall be waived for the period from January 1, 1998 through December 31, 1998, if at December 31, 1998, TWC's actual ratio of residential customers to business customers, served by TWC's facilities (and not on Ameritech's local loops), is greater than 2:1 (the "Ratio"). If the Ratio is not greater than 2:1, TWC shall pay nonrecurring charges on all ported numbers ordered by TWC from the period from January 1, 1998 to December 31, 1998. The nonrecurring charges shall be the lowest nonrecurring charges applicable to RCF available to another carrier by Ameritech on December 31, 1998. RCF arrangements for any subsequent period shall be determined by good faith negotiations commenced no later than fifteen (15) months after the effective date of this Agreement.

If a TWC resale customer becomes a TWC facilities based customer, the nonrecurring charge will be waived.

V. RECIPROCAL COMPENSATION

- A. Subject to terms and conditions of B below, the Parties shall compensate each other for the transport and termination of Local Traffic and IntraLATA Toll Traffic at the following rates:

Tandem Rate	End Office Rate
\$.009 per minute of use	\$.007 per minute of use

- B. For the twenty-four month period (or fraction thereof if this Agreement expires or terminates earlier) beginning July 1, 1997 and each twenty-four month period thereafter (or fraction thereof if this Agreement expires or terminates earlier) (each a "Calculation Period"), each Party shall aggregate the actual billing record minutes of use of Local Traffic (excluding Transit Traffic) that has been terminated by the other Party during such Calculation Period at its (i) Tandem Switch(es) ("Tandem Local Traffic") and (ii) End Office Switches ("EO Local Traffic").

If the POI between the Parties is at an Ameritech Tandem Office, the Parties shall reciprocally pay the Tandem Local Traffic Rate. If the POI between the Parties is at an Ameritech End Office, the Parties shall reciprocally pay the End Office Local Traffic Rate; provided, that if the Parties have a bona fide dispute as to whether Local Traffic had terminated at a Party's Tandem Switch or End Office Switch, such traffic shall be deemed to be EO Local Traffic.

Within thirty (30) days after the end of a Calculation Period, each Party shall calculate the total dollar amount of Local Traffic it terminated for the other Party during the Calculation Period (its "Terminated Traffic Amount") which shall be equal to the sum of its EO Local Traffic times \$0.007 plus its Tandem Local Traffic times \$0.009.

The Parties shall then calculate the "Imbalance Amount" which shall be equal to the Terminated Traffic Amount of the Party with the greater Terminated Traffic Amount minus the other Party's Terminated Traffic Amount.

If the Imbalance Amount does not exceed \$80,000, the Party with the greater Terminated Traffic Amount shall not bill the other Party for such amounts. If, however, the Imbalance Amount exceeds \$80,000, the Party with the smaller Terminated Traffic Amount shall pay to the other Party within 30 days of such determination the entire Imbalance Amount, including the initial \$80,000.



B



FILED

OCT 13 1998

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION
INDIANA UTILITY
REGULATORY COMMISSION

IN THE MATTER OF THE COMPLAINT OF)
TIME WARNER COMMUNICATIONS OF)
INDIANA, L.P. AGAINST INDIANA BELL)
TELEPHONE COMPANY INCORPORATED)
D/B/A AMERITECH INDIANA FOR A)
VIOLATION OF TA-96 RELATING TO)
ORDERING AND IMPLEMENTATION OF)
NUMBER PORTABILITY AND FOR)
VIOLATION OF OTHER STATUTES)
RESPONDENT: AMERITECH INDIANA)

Cause No. **41306**

COMPLAINT

Time Warner Communications of Indiana, L.P. ("Time Warner Telecom"), by counsel, and pursuant to Title 8 of the Ind. Code and 170 IAC 1-1-7(a), files this Complaint against Indiana Bell Telephone Incorporated d/b/a Ameritech Indiana ("Ameritech Indiana") for violation of statutory, regulatory, and contractual requirements concerning the provision of long-term number portability ("LNP").

Parties

1. Complainant, Time Warner Telecom is a Delaware limited partnership duly authorized by the Indiana Utility Regulatory Commission (the "Commission") as an alternative

telecommunications utility ("ALEC")¹ to provide intrastate telecommunications services in Indiana, including competitive local exchange services.

2. Respondent, Ameritech Indiana is authorized by the Commission to provide intrastate telecommunications services in Indiana, including local exchange services. Ameritech Indiana is a subsidiary of Ameritech Corporation, and is an Incumbent Local Exchange Carrier ("ILEC") and Bell Operating Company ("BOC") as defined by the federal Telecommunications Act of 1996 (the "Act").² Ameritech Indiana is a "public utility" and a "telephone company" as those terms are defined in Ind. Code § 8-1-2-1 *et seq.* and Ind. Code §8-1-2.6-1 *et seq.*

Summary of the Dispute

3. This complaint is the result of Ameritech Indiana's failure to implement number portability in a manner that provides parity to facilities-based CLECs by failing to port and convert telephone numbers of end users in a timely, efficient and safe manner without impairing the quality, reliability or convenience of the end user's telecommunications services.

4. End users who change service providers from Ameritech Indiana to Time Warner Telecom have suffered outages and delays in receiving service, impairing the quality and reliability of the service they receive, due to Ameritech Indiana's methods and procedures for processing orders for porting numbers and effectuating conversions.

¹ The Commission first used the term "ALEC" (Alternative Local Exchange Carrier) in its Interim Order on Bundled Resale and Other Issues in Cause No. 39983 (7/1/96 Order). Since then, the Commission uses the terms ALEC and CLEC (Competitive Local Exchange Carrier) interchangeably.

² Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (codified at 47 U.S.C. §§ 151, *et seq.*).

Number Portability Obligations

5. The Act “establishes ‘a pro-competitive, de-regulatory national policy framework’ that is intended to ‘promote competition and reduce regulation . . . to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid development of new telecommunications technologies.’ The statute imposes obligations and responsibilities on telecommunications carriers, particularly incumbent local exchange carriers, that are designed to open monopoly telecommunications markets to competitive entry and to promote competition in markets that already are open to new competitors.” (FCC First Report and Order and Further Notice of Proposed Rulemaking, In the Matter of Telephone Number Portability, CC Docket No. 95-116, ¶ 2 (June 27, 1996) (“First Report and Order”).

6. Number portability is one of the obligations that Congress imposed on all local exchange carriers (“LECs”), both incumbents and new entrants, in order to promote the pro-competitive, deregulatory markets it envisioned. “Congress has recognized that number portability will lower barriers to entry and promote competition in the local exchange marketplace.” (First Report and Order, ¶ 2). Congress recognized that number portability is one of the “fundamental building blocks upon which a competitive market for telephone exchange service will be built” and that the ability of an end user to change service providers is only meaningful if the customer can retain his or her local telephone number. (*Id.*, citing H.R. Commerce Comm. Rep. No. 103-560 at 67). Business and residential customers are reluctant to switch carriers without the ability to retain their telephone number and to the extent that customers are reluctant to do so, demand for services provided by new entrants will be depressed. (First Report and Order, ¶ 2).

7. The Act defines “number portability” as “the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.” (47 U.S.C. § 153(30)). The Act directs that each LEC has the duty to provide, “to the extent technically feasible, number portability in accordance with the requirements prescribed by the [Federal Communications Commission (“FCC”).” (47 U.S.C. § 251(b)(2)).

8. In its First Report and Order, and pursuant to the statutory requirement in Section 251 to provide number portability, the FCC required all LECs to begin to implement a long-term service provider portability solution that would meet certain performance criteria in the 100 largest Metropolitan Statistical Areas (“MSAs”) no later than October 1, 1997, and to complete deployment of number portability in those MSAs by December 31, 1998. (First Report & Order, ¶ 3). Specifically, the FCC required:

Deployment in one MSA in each of the seven [Bell Operating Company (“BOC”)] regions by the end of fourth quarter 1997, 16 additional MSAs by the end of first quarter 1998, 22 additional MSAs by the end of second quarter 1998, 25 additional MSAs by the end of third quarter 1998, and 30 additional MSAs by the end of fourth quarter 1998.

(First Report & Order, ¶ 77).

9. Pursuant to the FCC’s implementation schedule, implementation of long-term number portability was to be completed in Indianapolis, Indiana by June 30, 1998. (First Report & Order, Appendix F).

10. Pending implementation of long-term service provider portability, the FCC required LECs to provide currently available number portability measures, such as Remote Call Forwarding (“RCF”) and Direct Inward Dialing (“DID”), as soon as reasonably possible after receipt of a specific request from another carrier. (First Report & Order, ¶¶ 6, 114).

11. The FCC concluded that upon the date on which long-term portability must be implemented according to its deployment schedule, “BOCs must provide long-term number portability and will be subject to an enforcement action under Section 211(d)(6) if they fail to do so.” (First Report & Order, ¶ 115).

12. Ameritech Indiana has failed to provide LNP in a timely and proper manner in violation of federal and state law and the Interconnection Agreement, by failing to interface with Time Warner Telecom in such a manner as to ensure that orders for porting numbers and performing LNP cut overs are done in a timely, efficient, and safe manner, without impairing the quality, reliability, or convenience of the customer’s telecommunications services as follows:

- (a) Ameritech Indiana changes its process for reviewing LNP orders, without notice to Time Warner Telecom, by requiring additional or different information. Ameritech Indiana then rejects Time Warner Telecom’s orders for failure to comply with the changes which, in turn, delays LNP cut overs;
- (b) Ameritech Indiana has failed to respond to the subscription process in a timely manner, which delays LNP cut overs;
- (c) Ameritech Indiana has failed to implement the 10-digit trigger code employed by most ILECs and larger CLECs to the detriment of Time Warner Telecom, which impedes the LNP cut over process;
- (d) Ameritech Indiana has unreasonably long time intervals for responding to Time Warner Telecom’s LNP orders and for performing cut overs;

- (e) Ameritech Indiana has failed to open the codes necessary for the implementation of LNP;
- (f) Ameritech Indiana is failing to build the routing/translations into the end offices;
- (g) Ameritech Indiana has scheduled LNP cuts for times when it has historically run other programs and/or when staffing is low;
- (h) Ameritech Indiana has provided Time Warner Telecom with erroneous information regarding LNP availability;
- (i) Ameritech Indiana has failed to provide Time Warner Telecom with Firm Order Commitments ("FOCs") in a timely manner; and
- (j) Ameritech Indiana has failed to perform LNP cuts as scheduled.

13. End users who change service providers from Ameritech Indiana to Time Warner Telecom have suffered outages and delays in receiving service that impairs the quality and reliability of the service they receive, and results in inconvenience and safety concerns, all due to Ameritech Indiana's method and procedures for processing orders for porting numbers and effectuating cut overs.

***Commission Authority and Jurisdiction
To Resolve This Complaint***

14. The Commission specifically found that it has the authority to review and oversee the implementation of LNP pursuant to the Act and the authority delegated to it by the FCC. (IURC Cause No. 41083, 12/23/97 Order, p.2).

15. The state legislature has also vested the Commission with the authority to use its special expertise and abilities to make factual determinations in telecommunications matters, and to provide policy determinations and considerations for the industry as a whole. (IURC Cause No. 39983, 7/1/96 Order, p. 25). The Commission is directed to further Indiana's policies of

competitive fairness, nondiscrimination and efficient and economic provision of telephone service. (IURC Cause No. 39983, 7/1/96 Order, p. 26).

16. The Commission also has authority under the Indiana Statutes to resolve this Complaint. Under Ind. Code §§8-1-2-58, 8-1-2-69 and 8-1-2.6 *et seq.*, the Commission has broad authority to investigate all matters relating to the provision of telecommunications services in Indiana, and broad jurisdictional authority over any matter relating to telephone utilities in a competitive environment. (IURC Cause No. 39983, 6/5/96 Order and 7/1/96 Order). Since state law requires that telecommunications services be rendered in a just and reasonable manner, the Commission must be able to evaluate whether Ameritech Indiana's provision of number portability is just and reasonable and in conformity with state and federal law.

17. The Commission has authority to resolve this Complaint under Ind. Code §§ 8-1-2-58 and 8-1-2-69, which require a public utility to provide adequate service and nondiscriminatory and nonpreferential rates and charges, and under Ind. Code §8-1-2-4 that requires public utilities to provide adequate services and facilities.

18. Ameritech Indiana's failure to timely and properly provision number portability implicates its duties and obligations under Ind. Code §8-1-2-1 *et seq.* Sections 68 and 69 provide that the Commission, upon its own motion or a complaint filed by a consumer, shall have jurisdiction to commence civil actions against telecommunications utilities to enforce its orders. The Commission also may institute in any court of competent jurisdiction a proceeding against a telecommunications utility for forfeiture or penalty imposed by the Commission for neglect or violation of the Indiana law. Ind. Code §8-1-2-115.

19. The Commission is authorized to hear and resolve this Complaint under Ind. Code §8-1-2-54, which authorizes the Commission to hold hearings on and resolve complaints that “any practice or act whatsoever affecting or relating to the service of any public utility . . . is in any respects . . . insufficient or unjustly discriminatory. . . .” Under Ind. Code §8-1-2-58, the Commission may summarily investigate matters in which it believes “any rate or charge may be unreasonable or unjustly discriminatory or that any service is inadequate or cannot be obtained or that an investigation of any matter relating to any public utility should for any reason be made” Ameritech Indiana’s provisioning of number portability is unreasonable, inadequate, unjustly discriminatory, and unlawful; hence, the Commission’s authority extends to Time Warner Telecom’s claims.

20. The Commission also has authority to hear and resolve this matter under Ind. Code §8-1-2-61, which provides that “[a]ny public utility may make complaint as to any matter affecting its own rates or service.” Clearly Ameritech Indiana’s failure to timely and properly provision LNP affects Time Warner Telecom’s provision of service to its customers.

Efforts to Resolve Dispute

21. On July 12, 1996, Time Warner Telecom and Ameritech Indiana entered into an Interconnection Agreement under Sections 251 and 252 of the Act (“Interconnection Agreement”). The Commission on November 13, 1996 in Cause No. 40572-INT-02 approved the Interconnection Agreement. Among other things, the Interconnection Agreement provides that “the parties shall migrate from RCF [remote call forwarding] or DID [direct inward dial] to Permanent Number Portability as soon as practically possible, but no later than December 31, 1998, without interruption of service (to the degree possible) to their respective customers.”

(Interconnection Agreement, Section 15.2.5). This provision is consistent with the Act and the First Report and Order.

22. The Commission also has clear and unquestioned authority to hear and resolve this Complaint under the provisions of the Interconnection Agreement.

23. The Interconnection Agreement provides for Commission review and a determination of disputes in situations where the parties are unable to resolve the issues themselves. Article XXXIV of the Interconnection Agreement applies to “any dispute arising under this Agreement or related agreements the Parties may have in connection with this Agreement.” The parties are required to first discuss the dispute and seek resolution before pursuing any action “before any court or regulator.”

24. Time Warner Telecom and Ameritech Indiana have had numerous discussions and meetings regarding Ameritech Indiana’s number portability-provisioning problems. Most recently, on September 30, 1998, Time Warner Telecom executives and Ameritech Indiana executives met in Chicago, Illinois to discuss the LNP problems at length. Time Warner Telecom advised Ameritech Indiana that it has problems reaching its personnel, who fail to return phone calls and pages. When Time Warner Telecom asked for a dedicated contact person at Ameritech Indiana to deal with these problems, Ameritech Indiana refused to make a single person available.

25. The problems have not been resolved and continue to threaten competition. The ADR contemplated by the Interconnection Agreement does not mean that Ameritech Indiana is entitled to pursue an “Alternative Delay Route.”

26. In the event no resolution is possible, a party may attempt to resolve any dispute “according to the rules, guidelines and regulations of the Commission.” In addition, Section 35.5 of the Interconnection Agreement provides that if the parties are unable to resolve a dispute pursuant to Article XXXIV, “then either Party may file a complaint with the Commission to resolve such issues or proceed with any other remedy pursuant to law or equity.” Since Time Warner Telecom and Ameritech Indiana agreed to this process, and since the Commission approved this contractual provision, Time Warner Telecom properly may bring this dispute to the Commission for review and resolution.

27. The Commission also has authority to resolve this Complaint under the Act. The Eighth Circuit Court of Appeals recently confirmed state regulators’ authority to review disputes under an interconnection agreement when it determined that “state commissions retain the primary authority to enforce the substantial terms of the agreements made pursuant to sections 251 and 252.”³ The Court stated that state commission enforcement power “extends to ensuring that parties comply with the regulations that the FCC is specifically authorized to issue under the Act,”⁴ making clear that state commissions are empowered to address interconnection agreement issues and LNP implementation issues.

28. Finally, the Commission also has jurisdiction to hear complaints arising out of violations of the Interconnection Agreement that was the subject of Commission review and approval.

³Iowa Utilities Board v. FCC, No. 96-3321, slip op. at 122 (8th Cir. July 18, 1997).

⁴Id.

Summary of Ameritech Indiana's Provisioning of LNP

29. When a customer desires to switch its telecommunications services from Ameritech Indiana to Time Warner Telecom, both the customer and Time Warner Telecom have experienced extensive problems with the smooth and "transparent" change Ameritech Indiana committed to provide.

30. Ameritech Indiana agreed to implement LNP so that it is a "transparent infrastructure in carrier network. . . . Number portability by itself should not be the cause of any change in service performance levels or outages." (Testimony of T. Appenzeller, Ameritech Indiana, Cause No. 41083). Barry Bishop, one of the Co-Chairman for the Number Portability Task Force and Ameritech's representative, conceded that "our goal is to make number portability a consumer benefit, which will provide additional telecommunications options for Local services."⁵ Contrary to its assurances, Ameritech Indiana's implementation of LNP has caused outages and affected the service performance level of Time Warner Telecom, frustrating the implementation of LNP and precluding LNP from benefitting the consumer.

31. In the last three months, Time Warner Telecom has converted over 1600 telephone numbers to LNP in the Indianapolis MSA. As a result of conversions from Ameritech Indiana to Time Warner Telecom, Time Warner Telecom new customers have experienced outages of service of up to 32 hours per customer and have had their numbers disconnected prematurely resulting in their customers who call receiving a disconnect message or an unanswered ring.

⁵December 9, 1997 Task Force Report in Cause No. 39983.

Ameritech Indiana's Ordering Procedures

32. Carriers are implementing LNP through a location routing number ("LRN") architecture. Under a LRN method, each customer's telephone number is matched in one of seven databases with a LRN that identifies the switch that currently serves that telephone number. Neutral third parties, called local number portability administrators ("LNPA"), administer these regional databases. Ideally, when a customer changes from one LEC to another, the carrier that wins the customer "ports" the customer's telephone number from the former carrier by electronically transmitting (uploading) the new LRN to the administrator of the relevant regional database. This pairs the customer's original telephone number with the LRN for the switch of the new carrier, allowing the customer to retain the original telephone number.

33. When a customer desires to switch its telecommunications services from Ameritech Indiana to Time Warner Telecom, Time Warner Telecom gathers information from Ameritech Indiana's customer service records ("CSR") and sends an order to Ameritech Indiana containing the information requested by Ameritech Indiana. Ameritech Indiana then sends a firm order commitment ("FOC") back to Time Warner Telecom, indicating that it will meet the LNP cut over due date requested by Time Warner Telecom.

34. Ameritech Indiana will not give Time Warner Telecom a FOC, however, until Ameritech Indiana determines that it has received a "clean" order from Time Warner Telecom. Often the order is rejected due to alleged errors in the information required because Ameritech Indiana has changed its requirements without communicating to Time Warner Telecom in advance of the rejection of its order, therefore not allowing Time Warner Telecom to provide the additional requested information. Ameritech Indiana has also rejected orders because the end

user has placed orders with Ameritech Indiana that have not been filled yet – orders that have been placed over six months ago. A rejection of the order, of course, delays the LNP cut over.

35. Ameritech Indiana also may reject an order due to minor problems with the information provided by Time Warner Telecom, even if that information was taken directly from Ameritech Indiana's Customer Service Record.

Ameritech Indiana's Translation and Subscription Problems

36. Ameritech Indiana also has failed to respond to the subscription process in a timely manner. After Ameritech Indiana provides a FOC, Time Warner Telecom creates a subscription. Ameritech Indiana has failed to respond to the subscription process which results in the information not being inputted into Ameritech Indiana's system, the LNP cut over not occurring and, ultimately, the Time Warner Telecom customer not receiving telephone service.

37. Ameritech Indiana also has failed to implement the 10-digit trigger code employed by most ILECs and larger CLECs, although it supported and agreed to use the LNP number portability architecture to implement LNP. LRN depends upon Intelligent Network ("IN") or Advanced Intelligent Network ("AIN") capabilities, using a 10-digit number to identify a switch that has ported numbers. Part of this 10-digit number contains the translation or code that serves as a network address. Instead of using this 10-digit number, Ameritech Indiana uses a 7-digit number because it has not yet upgraded its software to implement a 10-digit trigger. As a result of the elimination of three key numbers, Ameritech Indiana removes the translation for the query and, instead, implements its own translation, permitting it to remain in control of the porting of a number – instead of vesting control with the CLEC. Problems in implementing this translation have resulted in extending time frames to port numbers.

38. Without the 10-digit trigger code which supplies the translation, the translation necessary for cut overs must be coordinated manually--to the minute--between Ameritech Indiana and Time Warner Telecom. If problems occur during the coordination between Time Warner Telecom and Ameritech Indiana, the customer will be without service.

39. Ameritech Indiana's ability to use the 10-digit trigger code (as opposed to the 7-digit trigger code) requires a software upgrade. Other ILECs and the majority of large CLECs, including Time Warner Telecom, have upgraded their software and, thus, are using the 10-digit trigger code. In those areas where ILECs are using the 10-digit trigger code, the cut over of end users to Time Warner Telecom has taken a matter of seconds or minutes, instead of the hours or days it takes under Ameritech Indiana's system. Ameritech Indiana has failed to upgrade its software so as to enable it to meet this industry standard to the detriment of Time Warner Telecom.

Ameritech Indiana's Cut Over, Code Opening and Routing Problems

40. Ameritech Indiana also has unreasonably long time intervals for effectuating LNP cut overs. Ameritech Indiana's LNP processing intervals are uncertain, and have averaged from one to two weeks. The suggested industry intervals for cut overs are three business days for an end office previously opened to LNP and five business days for end offices that have not been opened to LNP. The Commission should require Ameritech Indiana to establish firm guidelines for provisioning LNP with specified time intervals.

41. Ameritech Indiana also has failed to open codes necessary for the implementation of LNP. Ameritech Indiana often rejects Time Warner Telecom's LNP orders because a

necessary code is not open. This is an unreasonable basis for rejecting an order given the fact that Ameritech Indiana is responsible for ensuring that the necessary codes are open.

42. Instead of opening all the codes that are portable for the NPA-NXX's at the time the switch is made LNP capable and the NPA-NXX is designated, Ameritech Indiana will only open certain codes. This Commission specifically recognized that the exclusion of certain NXX codes and services can skew the playing field and have anticompetitive effects if it limits the end user's choice of carriers or frustrate call competitions necessary for implementation of LNP. See In the Matter of the Investigation into the Implementation of Number Portability, Cause No. 41083, 6/19/98 Order.

43. Time Warner Telecom has opened all of its codes, but Ameritech Indiana advised Time Warner Telecom that it will not have all the necessary codes open until February of 1999, claiming that it had not budgeted resources to open all codes by June 30, 1998. This violates Ameritech Indiana's obligation under the First Report and Order to have LNP implemented in Indianapolis by June 30, 1998, and its obligation under the Interconnection Agreement to convert interim number portability ("INP") to LNP by December 31, 1998. The Commission should require Ameritech Indiana to promptly open codes in all its NXXs that are in the scheduled LNP-ready markets.

44. Ameritech Indiana is not doing the routing/translations at the end offices associated with number porting. A customer is ported, but the routing/translations are not built into all the end offices for the number porting. Consequently, when a call comes through to the end office, the porting takes place at the Tandem level--and all the traffic hits Time Warner Telecom's tandem trunks--instead of the end office trunks where intended.

45. In other words, Time Warner Telecom's tandem trunks are taking all the LNP traffic instead of the end office trunks taking the traffic. LNP customers currently are not included on the forecasts because this traffic was not planned. Consequently, this impacts Time Warner Telecom's network and will do so more in the future as Time Warner Telecom moves from INP to LNP and begins doing more LNP conversions. Forecasting and trunking to handle customer LNP traffic will also become an issue.

Impact on E911, competition and end-users

46. Once a cut over occurs and LNP is in place, the stability of LNP has been an issue. For example, problems with E911 may occur if Ameritech Indiana fails to unlock the data record for updating in a timely manner and Time Warner Telecom is not able to migrate the number. Similarly, if the translation used by Ameritech Indiana to perform the cut over is not accurate, the customer may be without telephone service.

47. Ameritech is required to operate its system to provide safe, adequate and continuous service, to make a reasonable effort to minimize the extent and duration of interruptions in service, and must give priority to service interruptions that affect public health and safety. 170 IAC 7-1.1-11(D) and (E). Its failure to operate its system in a manner to eliminate interruptions in service and ensure that end users retain their access to emergency services is a violation of the service standards set forth in 170 IAC 7-1.1-11.

48. The Commission found it to be "crucial that the public safety be preserved, regardless of service provider. Provision and maintenance of these services [911, E911 and InTRAC] will require cooperation between the service providers; nothing less than complete cooperation will be acceptable to this Commission." (IURC Cause No. 39983, 7/1/96 Order, p.

46). In order to accomplish this cooperation, the Commission required ILECs to provide CLECs with parity – with the same level of services that it then provides to their own customers. Ameritech Indiana has failed to cooperate with Time Warner Telecom to implement LNP in a manner that preserves the safety of the public. Ameritech Indiana's failure to cooperate and provide parity to Time Warner Telecom cannot be tolerated by this Commission.

49. Its misconduct in operating, developing, implementing and maintaining its system, which has a direct impact on the effectiveness and operations of the emergency telephone system, violates Ind. Code 36-8-16-18 for which civil damages may be imposed.

50. The problems with LNP defeat Time Warner Telecom's ability to convert customers from INP to LNP. Pursuant to the First Report and Order, Ameritech Indiana was required to implement LNP in Indianapolis by June 30, 1998. The Commission encouraged CLECs and ILECs "to develop mutually agreeable transition procedures. In the event hat such transition procedures are not agreed upon", the Commission advised carriers to notify it. (Cause No. 41083, 6/19/98 Order, p. 10). If LNP is not working properly, then the parties' obligation under the Interconnection Agreement to convert from INP to LNP by December 31, 1998, is jeopardized.

51. Time Warner Telecom has customers that need to migrate from INP measures such as DID and RCF to LNP. Time Warner Telecom has taken every measure to prepare for LNP, and its switches and network are LNP capable. Given the serious and substantial difficulties of implementing LNP with Ameritech Indiana, Time Warner Telecom is reluctant to place its relationship with its customers in jeopardy to migrate them from INP to LNP unless these issues are remedied.

52. Despite its substantial problems in complying with the 10-digit trigger, its failure to upgrade its software, and its refusal to open all NPA-NXX codes for LNP, Ameritech Indiana notified CLECs that they must migrate their INP customers to LNP by October 30, 1998. If they do not do so, Ameritech Indiana will begin charging CLECs the retail rates for INP (for the RCF and DID services), even though Ameritech Indiana is not in compliance with LNP requirements. Ameritech Indiana's conduct is unconscionable, blaming CLECs for the failure to implement LNP,⁶ unilaterally instituting a penalty for failure to migrate customers when Ameritech Indiana's procedures for migration are unreliable.

Ameritech Indiana's Conduct Violates Federal and State Law, and the Interconnection Agreement, and is Anticompetitive.

53. The ability of customers to retain their telephone numbers--through LNP--when changing service providers gives customers flexibility in the quality, price, and variety of telecommunications services they choose to purchase. Number portability promotes competition between telecommunications service providers by, among other things, allowing customers to respond to prices and service changes without changing their telephone numbers. (First Report and Order, ¶ 30).

54. Ameritech Indiana's actions are unjust, unreasonable, and discriminatory and constitute an anticompetitive and unlawful abuse of its monopoly power against a local

⁶In the Matter of the Application of Ameritech Ohio to Revise its Ameritech Tariff to Change its Rules and Regulations for Service Number Portability, PUCO Cause No. 98-1038-TP-ATA, Ameritech claimed that "MCImetro, AT&T, and Time Warner Telecom have all failed to implement LNP. As a result, they have continued to provide their customers the RCF and DID interim solutions." Ameritech Ohio Memo Contra, August 10, 1998.

competitor, are contrary to be public interest, and a violation of the requirement to affect parity among itself and its facility-based competitors and its customers and CLEC customers. Time Warner Telecom must rely upon Ameritech Indiana to process orders for porting numbers and must work together with Ameritech Indiana to cut over the customer's service. Any inadequacies in the provisioning of service provider LNP results in non-parity. Because INP or LNP only are necessary when a customer chooses to change carriers, there is a built-in bias against facilities-based carriers which can be neutralized only by holding Ameritech Indiana to a strict duty of care in implementing LNP. Ameritech Indiana's conduct in failing to process and implement LNP in a prompt, effective, and efficient manner is unjust, unreasonably discriminatory, anticompetitive and contrary to law.

55. The Indiana legislature has established the promotion of competition as one of the most important policies in Indiana. Specifically, Ind. Code 8-1-2.6-1 provides:

- (1) the maintenance of universal telephone service is a continuing goal of the commission in the exercise of its jurisdiction;
- (2) competition has become commonplace in the provision of certain telephone services in Indiana and the United States;
- (3) traditional commission regulatory policies and practices and existing statutes are not designed to deal with a competitive environment;
- (4) an environment in which Indiana consumers will have available the widest array of state-of-the-art telephone services at the most economic and reasonable cost possible will necessitate full and fair competition in the delivery of certain telephone services throughout the state; and

(5) . . .the public interest requires that the commission be authorized to formulate and adopt rules and policies as will permit the commission, in the exercise of its expertise, to regulate and control the provision of telephone services to the public in an increasingly competitive environment, giving due regard to the interests of consumers and the public and to the continued availability of universal telephone service.

56. Ameritech Indiana's failure to provide timely and proper LNP is anticompetitive. It is a deficiency in parity that inures to Ameritech Indiana's benefit and, thereby, helps to perpetuate its monopoly status.

57. Ameritech Indiana's behavior adversely affects customers' willingness to switch carriers. Large business consumers simply will not change carriers if they are required to change telephone numbers. To do so would increase the cost of changing carriers because large business would have to obtain new business cards, stationary, directory listings, and change their advertisements.

58. Ameritech Indiana's procedures for handling and processing orders and effectuating cut overs of customers often results in Time Warner Telecom missing deadlines imposed by customers, which in turn damages Time Warner Telecom's reputation and its customers' perception of the quality of service being provided by Time Warner Telecom. Ameritech Indiana's unlawful procedures have a unique impact on facility-based competitors, who require LNP in order to compete with Ameritech Indiana for customers.

59. Ameritech Indiana's conduct also harms Time Warner Telecom in terms of the wasted time that Time Warner Telecom personnel must spend dealing with Ameritech Indiana to remedy the problems, prevent the problems from reoccurring in the future, and mending customer

relations. Other CLECs have found it necessary to devote personnel full-time to ensuring that their orders are processed timely by Ameritech Indiana.

60. Ameritech Indiana's behavior also is contrary to the public interest because it defeats the purpose of the Act - to promote competition. One of the hallmarks of competition is innovation. Ameritech Indiana's failure to properly provision LNP is not only anticompetitive, but also it hampers innovation - especially the development of competitive facility-based telecommunications providers. Without competition, innovation is less likely to occur.

61. Ameritech Indiana's failure to properly and timely provision number portability harms competition by undermining the development of facilities-based competition which is uniquely dependent upon an efficient and effective LNP implementation. Number portability is essential to facilities-based local competition and Ameritech Indiana's behavior has a disparate impact on the ability of facilities-based competitors to provide reliable service on a competitive basis.

62. The effective and reliable implementation of LNP is not necessary for Ameritech Indiana to continue to serve its retail customers. It is essential, however, for Time Warner Telecom to serve retail customers. If Ameritech Indiana cannot effectuate number portability without inconveniencing the customer or causing a degradation in service quality, Ameritech Indiana is discriminating against Time Warner Telecom as a facilities-based provider, failing to provide service to Time Warner Telecom that is at least equal in quality to that it provides itself and suppressing facilities-based competition. Hence, inadequate implementation of LNP by Ameritech Indiana causes a lack of parity between Ameritech Indiana and its competitors, enabling it to retain its monopoly position.

63. Ameritech Indiana's behavior adversely affects customers' willingness to switch carriers. It damages Time Warner Telecom's relations with its customers and potential customers regarding the quality of service provided. Any difficulty or problem Time Warner Telecom experiences in transferring an end users service is viewed by the customer as a problem with Time Warner Telecom's service. Ameritech Indiana's behavior also is contrary to the public interest as it runs counter to the purpose of the Act, Indiana law and Commission policies and procedures, which is to promote competition.

64. Ameritech Indiana's procedures for handling and processing orders for number porting and transferring service from one carrier to another--which may leave customers without telephone service for hours to days at a time--also endangers public safety, leaving customers without access to emergency systems such as 911.

65. Ameritech Indiana's failure to provide timely and proper LNP is a failure to provide reasonably adequate service. Ameritech Indiana's unlawful actions inhibit the promotion and preservation of competition, thwart consumer choice, impact the quality of life for the public by threatening the stability of E911 and access to emergency providers, hinders the promotion of economic development, including telecommunications infrastructure deployment, and limits the efficiency and productivity of telecommunication providers.

66. Ameritech Indiana's failure to properly and timely provision LNP compels a determination that Ameritech Indiana's service is not reasonable or just, is not reasonably adequate, and is not in the public interest.

67. Time Warner Telecom seeks a determination that Ameritech Indiana's behavior is unjust, unreasonable, discriminatory, anticompetitive, and contrary to federal and state law, and is a breach of the Interconnection Agreement.

68. Time Warner Telecom further seeks an immediate order directing Ameritech Indiana to timely and properly provision LNP, which includes meeting the agreed upon due dates.

69. Time Warner Telecom requests the Commission to find that Ameritech Indiana acted wrongfully under the Interconnection Agreement and direct Ameritech Indiana to cease all such anticompetitive actions in the future.

70. Time Warner Telecom requests the Commission to enjoin Ameritech Indiana from imposing an unlawful rate on Time Warner Telecom for any INP customers that have not migrated to LNP.

71. Time Warner Telecom seeks damages for Ameritech Indiana's unlawful action pursuant to Ind. Code §8-1-2-107 for lost revenue, damages to its reputation and any unlawful charges paid to Ameritech Indiana.

72. Time Warner Telecom requests that the Commission implement specific reporting requirements for Ameritech Indiana. Such reporting requirements were considered by the Commission in Cause No. 41083, and given Ameritech Indiana's failure to provide parity in the implementation of LNP, reporting requirements are essential to effective oversight by the Commission. Ameritech is required to provide any records or reports required by the Commission pursuant to 170 IAC 7-1.1-3. In addition, Ameritech is required to permit Commission staff to make a personal visitation to a utility's facilities to witness cut overs. 170 IAC 7-1.1-3(C).

73. Time Warner Telecom requests the Commission suspend, pursuant to Ind. Code §8-1-2-113, the requirement for migration from INP to LNP to prevent the injury to the business and interest of the public and Time Warner Telecom until such time as Ameritech Indiana complies with all of its statutory and regulatory duties and obligations.

74. Time Warner Telecom requests the Commission grant it any relief that may be appropriate, including:

- (a) revocation of Ameritech Indiana's CTA for its failure to furnish reasonably adequate telephone service pursuant to Ind. Code §8-1-2-88(d),

- (b) revocation of its alternative regulatory treatment pursuant to Ind. Code §8-1-2.6-2(c), and

- (c) imposition of reporting, auditing and tracking obligations on Ameritech Indiana with respect to its LNP implementation in accordance with Ind. Code §8-1-2-52.

75. Time Warner Telecom proposes that these quality of service issues also be considered in several dockets currently pending before the Commission, such as the Universal Service Fund and Access Charge Reform Docket (Cause No. 40785), Ameritech/SBC Merger Docket (Cause No. 41225), Ameritech Indiana's Wholesale Rate Docket (Cause No. 41055), Ameritech Indiana's Opportunity Indiana Docket (Cause No. 40839), and the Number Portability Docket (Cause No. 41083).

76. Time Warner Telecom seeks summary resolution of the Complaint. Alternatively, if a hearing to review some limited factual matter is necessary, it should be held on an expedited basis.

Administrative Matters

77. The name and address of counsel for Time Warner Telecom to whom inquiry regarding this Complaint may be address, and who are authorized to accept service on behalf of Time Warner Telecom are:

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317-630-4000
psherwoo@sommerbarnard.com

Marsha Rockey Schermer
Vice President, Regulatory
Midwest Region
Time Warner Telecom Communications
65 East State Street, Suite 1800
Columbus, OH 43215

PRAYER FOR RELIEF

78. For the foregoing reasons, Time Warner Telecom requests that the Commission summarily resolve this dispute and promptly issue an order providing:

- (a) That Ameritech Indiana is required under the Act to implement LNP without compromising the integrity and reliability of the service to the end user;
- (b) That Ameritech Indiana is required to provide end users of Time Warner Telecom with the same level of reliability and convenience in transferring service as it provides to its own customers;
- (c) That Ameritech Indiana is to timely and properly provision LNP, including meeting the agreed upon due dates;

- (d) That Ameritech Indiana is to upgrade its software so as to enable it to use the 10-digit trigger code;
- (e) That Ameritech Indiana develop, with the oversight of the Commission's Staff, requirements for processing orders for porting numbers and implementing cut overs, including specific intervals for effectuating cut overs;
- (f) That Ameritech is required to perform actual LNP cut overs while the Commission staff is on-site monitoring Ameritech Indiana's performance and compliance;
- (g) That Ameritech Indiana file on a weekly basis, regular reports on LNP with the Commission's Staff that will be subject to neutral, third-party oversight, auditing and tracking by the Commission, for monitoring and compliance.
- (h) That Ameritech Indiana is to promptly open codes in all its NXXs, which are in the scheduled LNP ready markets.
- (i) That Ameritech Indiana provide a dedicated resource to be available to receive and promptly address Time Warner Telecom's concerns;
- (j) That Ameritech Indiana refund all charges Time Warner Telecom paid for LNP or INP paid for inadequate services and indemnify Time Warner Telecom in an amount equal to all credits paid by Time Warner Telecom to its customers, or all customer charges waived by Time Warner Telecom, due to Ameritech Indiana's failure to properly provision LNP; and
- (k) That Ameritech Indiana cease all such anticompetitive actions in the future.

79. In the absence of a summary resolution in its favor, Time Warner Telecom requests an expedited hearing to resolve this dispute.

80. That the Commission impose such sanctions as it deems appropriate to deter Ameritech Indiana from pursuing similar action, including withdrawal of the benefits as a price regulated telecommunications utility.

81. That the Commission award Time Warner Telecom its reasonable attorneys' fees and costs incurred in prosecuting this Complaint.

82. For such other and further relief as the Commission deems appropriate.

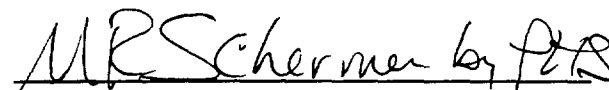
Respectfully submitted,

TIME WARNER COMMUNICATIONS OF
INDIANA, L.P.

By: 

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And By:



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CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a copy of the foregoing document has been served via hand delivery on the following counsel for Ameritech Indiana this 13th day of October, 1998:


Teresa Morton
Barnes & Thornburg
1313 Merchants Bank Building
11 South Meridian Street
Indianapolis, IN 46204

And

Sue E. Stemen
David Stippler
Ameritech
240 N. Meridian Street
Indianapolis, IN 46204

This document has also been served, via first class United States mail, postage prepaid, on the following counsel representing the public:

Anne E. Becker
Timothy Seat
Office of Utility Consumer Counselor
Indiana Government Center
100 N. Senate Ave, Room N501
Indianapolis, IN 46204


Pamela H. Sherwood

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